SECTION 10.1

Comments and Responses for Federal Agencies

10.1 Comments and Responses for Federal Agencies

INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO

OFFICE OF THE COMMISSIONER
UNITED STATES SECTION

MAR 2 1 2002

ACTION BY
DUE DATE
MAR 25 '02
DATE | LOG NO. | INITIALS
CLASSIFICATION
CONTROL NO.
FOLDER I.D.

United States Bureau of Reclamation
Attn: Mr. Bruce D. Ellis
Phoenix Area Office
P.O. Box 81169
Phoenix, AZ 85069-1169

Dear Mr. Ellis:

The United States Section, International Boundary and Water Commission (USIBWC) has reviewed the *Draft* Environmental Impact Report/Environmental Impact Statement (EIR/EIS) titled, ***Imperial Irrigation District Water Conservation and Transfer Project and Draft Habitat Conservation Plan*** dated, January 2002. The review comments on the EIR/EIS (Volume 1) are followed by those on the Habitat Conservation Plan (Volume 2).

Volume 1:

F1-1 **Pages ES-1 and 1-35.** Note that the proposed Inadvertent Overrun and Payback Policy (IOP) does not apply to Mexico and the deliveries made under the United States-Mexico Water Treaty of 1944. The IOP establishes requirements for payback of inadvertent overuse of Colorado River water by Colorado River users in the Lower Division States. This proposal affecting the Lower Division States does not include Mexico. In addition, the IOP does not conform to the Water Treaty of 1944.

F1-2 **Section 1.4.1, page 1-21, sentence 3.**

- Delete *17 **miles*** and insert *23.7 **miles*** to revise the distance stated for the international boundary.

F1-3 **Section 1.5.3, page 1-35, paragraph 2, sentence 1.**

- Insert wording found in the first comment for pages ES-1 and 1-35.

F1-4 **Section 3.16, page 3.16-3, paragraph 1, sentence 2.**

- Delete *1994*
- Insert *1944* to correct the referenced year of the U.S.-Mexico Water Treaty.

The Commons, Building C, Suite 310 • 4171 N. Mesa Street • 002
(915) 832-4100 • (FAX) (915) 832-4190

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Letter - F1. International Boundary and Water Commission. Signatory - Sylvia A. Waggoner.

Response to Comment F1-1

The commenter is correct. Reclamation has revised the proposed IOP policy to clarify that it does not apply to Mexico.

Response to Comment F1-2

The suggested changes have been made and are reflected in Section 1.41 of the Final EIR/EIS.

Response to Comment F1-3

The commenter is correct. Reclamation has revised the proposed IOP policy to clarify that it does not apply to Mexico.

Response to Comment F1-4

The suggested changes have been made and are reflected in Section 3.16 in this Final EIR/EIS.

Section 6.0, page 6-3, reference 8.

F1-5

- Delete ***International Boundary and Water Commission (IBWC)***
- Insert ***United States Section, International Boundary and Water Commission (USIBWC)***

Section 8.0, page 8.0-2, reference 4.

F1-6

- Insert ***International Boundary and Water Commission, U.S. Section, Yuma, AZ***

Volume 2:

Section 2, page 2-4, the Alamo Canal subsection, sentence 1.

F1-7

- Delete ***mexico*** and insert ***Mexico***.

Section 2, page 2-5, the New River subsection, sentence 1.

F1-8

- Insert after the word ***residues*** the words: ... ***agriculture return flows, and storm water drain water*** ...

Section 2, page 2-5, the New River subsection, sentence 3.

- Specify the period of the reported New River flow of ***100 KAFY*** at the international boundary which is stated as being ...***up through the late 1970's.***
- Reference the source of the reported flow, because it is a little high based on the IBWC Western Water Bulletin average annual discharge of approximately 82.5 KAFY for the New River at the international boundary from 1943 through 1979.

F1-9

- Reference the source of the reported average discharge of ***150 KAFY*** for the period of 1979 through 1982 at the international boundary, because that value is a little high based on the flow average of 115 KAFY which is calculated from the IBWC Western Water Bulletin's reported annual discharges for the New River at the international boundary from 1979 through 1982.
- Clarify the end of sentence 3 which states:

  ... ***and from 1983 through 1987 to values higher than 250 KAFY.*** Reword to indicate that the flow average for 1983 through 1987 is approximately 250 KAFY, based on the IBWC Western Water Bulletin, and there were flows greater than that during the period.

Response to Comment F1-5

The suggested changes have been made and are reflected in Section 6 of this Final EIR/EIS.

Response to Comment F1-6

The suggested changes have been made and are reflected in Section 13 in this Final EIR/EIS.

Response to Comment F1-7

The suggested changes have been made and are reflected in the HCP in Appendix C in this Final EIR/EIS.

Response to Comment F1-8

The suggested changes have been made and are reflected in the HCP in Appendix C in this Final EIR/EIS.

Response to Comment F1-9

The suggested changes have been made and are reflected in the HCP in Appendix C in this Final EIR/EIS.

Section 2, page 2-5, the New River subsection, sentence 6. Briefly elaborate on the end of the sentence which states ... ***with the remainder of the flow coming from Mexico.***

F1-10

- Include Mexico's average annual flow in the New River that goes into the Salton Sea;
- Characterize the Mexican flow into the Salton Sea basically by reporting categories such as industrial and municipal wastewater discharges, agriculture return flows and drain water, as were reported for the United States flow into the Salton Sea from the New River;
- Reference the period of the data used for the United States and the Mexican flows into the Salton Sea, and state the total of all flows into the Salton Sea for that period.

F1-11

Section 2, page 2-12, the New River subsection, sentence 1.

- Revise as stated in the comment for Section 2, page 2-5, sentence 1.

If you have any questions or require additional information, please do not hesitate to call Mr. Steve Fox at (915) 832-4736.

Sincerely,

Sylvia A. Waggoner
Division Engineer
Environmental Management Division

3

Response to Comment F1-10

The suggested changes have been made and are reflected in the HCP in Appendix C in this Final EIR/EIS.

Response to Comment F1-11

The suggested changes have been made and are reflected in the HCP in Appendix C in this Final EIR/EIS.

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U.S. Department of the Interior
Fish and Wildlife Service
Arizona Fishery Resources Offices-Parker
60911 Hwy 95
Parker, Arizona 85344
FAX (520) 667-4015

15 April 2002

Mr. Elston Grubaugh
Manager of Resources, Management, and Planning Department
Imperial Irrigation District
P.O. Box 937
Imperial, CA 92251

Dear Mr. Ellis:

This is the Arizona Fishery Resources Office - Parker comment on the *Draft Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) Imperial Irrigation District Wter Conservation and Transfer Project and Draft Habitat Conservation Plan.*

F2-1 The comment pertains specifically to the population(s) of desert pupfish which occur within area to be impacted by this project and particularly those occurring in ". . . . drains that discharge directly into the Salton Sea, shoreline pools of the Salton Sea, and desert washes at San Felipe Wash and Salt Creek." (Pg. 3.2-61, this document). All of these habitats are at risk from this project due to dewatering and frankly none of them have been considered optimum pupfish habitat for at least the last two decades due to dewatering, the resultant increasing salinity, and predation/competion from introduced species. The steps suggested in this document would only prolong a deteriorating situation for this species and prolong the inevitable. I would suggest

F2-2 constructing a large pupfish habitat, filled by ground water or pumping to secure this species in perpetuity. Such a habitat would also benefit shorebirds and other aquatic species using the area.

Thanks for the opportunity to comment.

Sincerely,

C.O. Minckley Ph.D.
Project Coordinator

cc: L. Fitzpatrick, AESO
E. Grubaugh, IID

Letter - F2. U.S. Department of the Interior Fish and Wildlife Service. Signatory - C.O. Minckley, Ph.D.

Response to Comment F2-1

The comment suggests that the habitat for desert pupfish in the drains that discharge directly to the Sea, in shoreline pools, and in washes of San Felipe and Salt Creeks is at risk of dewatering from the proposed conservation and transfer of water. The Draft EIR/EIS and HCP identified potential impacts of the Project on the suitability of desert pupfish habitat in the drains that discharge directly to the Sea. In accordance with the anticipated level of take of pupfish, the HCP identified several measures designed to avoid, minimize, and mitigate any take of desert pupfish resulting from covered activities. These measures adequately and fully mitigate the impact of any take in the drains and contain provisions for improving the quality (i.e., reduce selenium concentration) and quantity (i.e., configure and manage drain channels on exposed seabed) of pupfish habitat in the HCP area. With the revision to the strategy for mitigating Salton Sea impacts (see the Master Response on *Biology—Approach to Salton Sea Habitat Conservation Strategy* in Section 9 of this Final EIR/EIS), IID would avoid any potential impacts related to water conservation on shoreline pool habitat. Changes in flow in San Felipe and Salt Creeks would not be affected by the proposed conservation and transfer of water. While it is acknowledged that the habitat created in IID's drains is not optimal and that other factors influence the viability of the pupfish population, IID's obligation extends only to mitigating the impact of any take of pupfish. IID is not required to contribute to recovery. Nonetheless, IID's conservation strategy for desert pupfish goes beyond mitigating impacts and does contribute to recovery. This is reflected in IID's commitment to take a positive step toward recovery by creating and maintaining a refugium pond consistent with the guidance provided in the Desert Pupfish Recovery Plan.

Response to Comment F2-2

Please refer to the Master Response on *Biology —Approach to the Salton Sea Habitat Conservation Strategy* in Section 9 of this Final EIR/EIS.

United States Department of Agriculture

NRCS
Natural Resources Conservation Service
177 North Imperial Avenue
El Centro, CA 92243

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APR 17 2002
RESOURCES PLANNING
& MANAGEMENT DEPARTMENT

April 15, 2002

Mr. Elston Grubaugh, Manager
Imperial Irrigation District
Resource Planning & Management Dept.
P.O. Box 937
Imperial, CA 92251

RE: EIR/EIS for the Imperial Irrigation District/San Diego County Water Authority Water Conservation and Transfer Project.

Dear Mr. Grubaugh,

I have received the information contained in the above project and have the following comments:

F3-1 Some of the main NRCS resource concerns that are germane to our agency are the leaching of salinity from the soil and the possible impact this water transfer will have on U.S.D.A. Highly Erodible Land compliance plans. I am aware that land fallowing is not allowed under this agreement but we know that there are ways to get around it, like changing crop rotation, etc. As you know there are approximately 116,000 acres of highly erodible cropland by U.S.D.A. standards that are susceptible to wind erosion located in the IID service area. Moisture content of the soil is one major component that keeps these Highly Erodible Plans in compliance along with protective crops during the critical wind erosion period (March thru June). If the highly erodible soils are not irrigated and cropped sufficiently enough to meet U.S.D.A. criteria, they could fall out of compliance. This could mean the loss of U.S.D.A. benefits to these landowners.

F3-2 Leaching salinity out of the soil profile and into the subsurface tile drains is also extremely important to Imperial Valley farmers. I just hope that the landowners that sell conserved water remember this so this valuable cropland can remain productive. I believe this water transfer will

F3-3 have a lesser impact on air quality and wildlife issues. It is a well-known fact that salinity concentration in the Salton Sea will probably rise, but I don't know if that can be avoided or not.

F3-4 In conclusion, I have read a newspaper clipping from the San Diego Union Tribune editorial section. I thought you might find it interesting that San Diego's mindset is that the Imperial Valley is awash in water and will be more than willing to sell more water in the near future. They think today many farmers from the Imperial Valley will line up to sell this conserved water.

The Natural Resources Conservation Service provides leadership in a partnership effort to help people conserve, maintain, and improve our natural resources and envi

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Letter - F3. Natural Resources Conservation Service. Signatory - Steve Cameron.

Response to Comment F3-1

Please refer to the Master Response on *Air Quality—Air Quality Issues Associated with Fallowing* in Section 9 of this Final EIR/EIS.

Also, refer to the response given for Comment L1-65 as follows:

Water users within IID use water diverted from the Colorado River to irrigate crop land. On average, Colorado River water contains approximately one ton of salt per acre-foot of water. As crops transpire water, the salt remains in the soil. In order to maintain the productivity of the land, the accumulated salts must be leached from the root zone. IID water users apply a small amount of additional leach water to carry accumulated salts below the crop root zone. Approximately 96 percent of farmed fields within the IID water surface area are underlain by tile drainage lines. These tile drainage lines collect the leach water and dissolved salts and convey them to the IID drainage system.

Tile lines are normally placed at depths of 5 to 7 feet below the land surface and maintain the groundwater level at that depth, even in areas with high water tables or poor natural drainage. For all Imperial Valley soils, that depth is sufficient to prevent groundwater, and any salt it may carry, from seeping to the surface. Therefore, should the water conservation and transfer program ultimately include a rotational or short-term fallowing component, groundwater will not impact the stability of the soil surface, nor will the land "sour" due to excessive salt build up. Should the Project include a rotational or short-term fallowing component, participating landowners will be required to control wind-induced soil erosion. During the normal course of their farming operations, IID water users employ soil erosion control best management practices (BMPs). For a list of wind erosion control BMPs, consult the National Resource Conservation Service (NRCS) Soil Conservation Field Book. Please refer to the Master Response on *Air Quality-Air Quality Issues Associated with Fallowing* in Section 9 of this Final EIR/EIS.

Should the Project include a land retirement component, there is potential for limited surface salinization on low-lying clay soils with poor natural drainage. These soils are located in areas where, in the absence of a functioning tile drainage system, the water table may rise close enough to the soil surface to allow capillary action to induce surface salinization. However, this impact will be avoided by maintaining the subsurface tile drainage system in working order.

Response to Comment F3-1(continued)

Should the water conservation and transfer program ultimately include a land retirement component, and should low-lying clay soils with poor natural drainage be included among the lands retired, IID will require the landowner to maintain the subsurface tile drainage system in working order.

Should the water conservation and transfer program include a land retirement fallowing component, participating landowners will be required to control wind-induced soil erosion, using appropriate NRCS wind erosion BMPs, until the soil surface naturally stabilizes.

Response to Comment F3-2

In identifying an average amount of water conserved per acre with on-farm irrigation system improvements, the hydrologic model, IIDSS, assumes that sufficient water is applied for leaching purposes.

Response to Comment F3-3

Please refer to the Master Response on *Biology —Approach to the Salton Sea Habitat Conservation Strategy* in Section 9 of this Final EIR/EIS.

Response to Comment F3-4

Comment noted.

F3-5 [The Natural Resources Conservation Service strongly encourages the preservation of prime farmland and statewide important farmland for agriculture.

If I can be of further assistance, please let me know.

Sincerely,

Steve Cameron
District Conservationist

The Natural Resources Conservation Service provides leadership in a partnership effort to help people conserve, maintain, and improve our natural resources and environment.

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Response to Comment F3-5

Comment noted.

United States Department of the Interior

FISH AND WILDLIFE SERVICE

California/Nevada Operations Office
2800 Cottage Way, Suite W-2606
Sacramento, California 95825-1846

RECEIVED
MAY - 9 2002

IN REPLY REFER TO:

April 26, 2002

Memorandum

To: Regional Director, Bureau of Reclamation
Lower Colorado River Regional Office, Boulder City, Nevada

From: Manager, California-Nevada Operations Office
Sacramento, California

Subject: Imperial Irrigation District (IID) Water Conservation and Transfer Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) Comments

F5-1 The Fish and Wildlife Service (Service) has received the IID Water Conservation and Transfer Project Draft EIR/EIS and Draft Habitat Conservation Plan (HCP) for review. The Service was designated a cooperating agency by the Bureau of Reclamation (Bureau) on the EIS so that a single document could address both project and permit issuance National Environmental Policy Act (NEPA) requirements. The Service's Record of Decision (ROD) will be based on the Final EIS and other documents required by the permitting process in section 10(a)(1)(B) of the Endangered Species Act (ESA; as amended). In order to assure that the Final EIS will meet both of our agencies' needs, we offer the following comments on the project and document. We have also provided additional information on the status of the HCP (Enclosure 1). Our comments on the Draft EIR/EIS are of a general nature; specific comments (including those of an editorial nature) have been provided directly to CH2MHill in the form of copies of "margin notes" from our staff's review of the document. It is important to note that the

F5-2 HCP is evolving as we continue to work with IID. As the proposed project and compensating mitigation measures change additional analysis will be necessary for the Final EIR/EIS. These issues need to be considered and addressed in the Final EIR/EIS or the Service will have to prepare additional NEPA documents for the HCP and proposed permit issuance.

Draft EIR/EIS Comments

Water Conservation and Transfer Project

F5-3 The Service recognizes the importance of the proposed transfers of water between water agencies in support of the California Colorado River Water Use Plan (4.4 Plan) and we appreciate the coordination that has been provided to the Service in our effort to meet the project time lines. In light of the high resource values of the Salton Sea, we support an approach to water conservation and

Letter - F5. U.S. Department of the Interior Fish and Wildlife Service. Signatory - Steve Thompson.

Response to Comment F5-1

Comment noted.

Response to Comment F5-2

The suggested changes have been made and are reflected in the HCP in Appendix C in this Final EIR/EIS.

Response to Comment F5-3

Please refer to the Master Responses on *Other—Relationship Between the Proposed Project and the Salton Sea Restoration Project*, and *Biology—Approach to Salton Sea Habitat Conservation Strategy* in Section 9 of this Final EIR/EIS.

transfer that does not preclude (either technically or economically) the restoration of the Salton Sea. Alternative 4 in the Draft EIR/EIS combined with Approach 2 for the Salton Sea in the HCP (mitigation water) appears to offer the best opportunity for implementing the project, while avoiding significant impacts to the fish and wildlife resources and the Salton Sea, and not precluding the development and implementation of a restoration project for the Salton Sea. This approach does not result in mitigation obligations for the Salton Sea on the water agencies beyond addressing the impacts to the Salton Sea associated specifically with the water conservation and transfer project. Restoration of the Salton Sea would continue to be pursued as a separate project by the Bureau and the Salton Sea Authority. F5-3

Hydrology

Sections 3.0 and 3.1 discuss adjustments to the Baseline for limits on water volumes to Priorities 1, 2, and 3 on the Colorado River. The discussion included in Appendix E (Imperial Irrigation Decision Support System) also refers to limiting priorities 1, 2, and 3 to 3.85 million acre-feet (MAF) in a normal year. The discussion needs to clarify what this means specifically for the modeling that was completed. This concept is also discussed in Appendix F (Salton Sea Accounting Model). Please be specific in the discussion to indicate how this entitlement enforcement affects the assumptions incorporated into the baseline projections used in the EIR/EIS (i.e., provide the specific water volumes involved) as compared to the existing inflows. F5-4

Another aspect of the baseline that needs further clarification is the apparent simultaneous application of the cap on IID's water use (3.1 MAF/year) and a payback volume (59,210 acre-feet/year). If IID is assuming that the cap is adhered to by incorporating it into the baseline projection, it is not clear why the baseline would also include a payback volume of close to 60,000 acre-feet/year required by the Inadvertent Overrun Policy (IOP). In fact, Section 3.1.4.1 specifically states that the IOP is triggered when IID's annual diversion exceeds the cap. Please provide the specific conditions under which IID would have to comply with the cap and provide a payback volume through conservation on an annual basis. F5-5

Indirect Effects

We have noted a lack of indirect effects analysis throughout the document. The brief discussion of the subregions excluded from analysis in Section 3.2.4.1 does not adequately address this issue, nor is it adequately addressed in Section 5.2.3 in Growth Inducement Impacts. Receiving Colorado River water at a higher priority increases the reliability of those volumes and has advantages for San Diego County Water Authority. The discussion needs to consider those benefits in the context of existing water needs and projected future needs in San Diego County. Given the frequency at which this topic was discussed in the recent public hearing in San Diego, the discussion provided is insufficient and will not meet the requirements of the NEPA. We request you analyze for this general land use impact in the Final EIR/EIS. F5-6

Operation and Maintenance Activities

Section 3.2.4.1 includes a brief discussion of operation and maintenance activities. This discussion is insufficient to address this topic. Many of the impacts addressed in the HCP are related to operation F5-7

Response to Comment F5-4

Please refer to the Master Response on *Hydrology—Development of the Baseline* in Section 9 of this Final EIR/EIS.

Response to Comment F5-5

Please refer to the Master Response on *Hydrology—Development of the Baseline* in Section 9 of this Final EIR/EIS.

Response to Comment F5-6

Please refer to the Master Response on *Other—Growth Inducement Analysis* in Section 9 of this Final EIR/EIS.

Response to Comment F5-7

IID's operation and maintenance (O&M) activities are included as part of the covered activities addressed in the HCP. A detailed description of IID's O&M activities is provided in Section 1.7.3 of the HCP, and the effects of these activities on covered species, for each habitat area, are described in Section 3 of the HCP. Additional detail on the effects of O&M activities on covered species has been added in the revised HCP and can be found in Section 3 of the HCP. The HCP is incorporated as part of this EIR/EIS as Appendix C. The description of the O&M activities in the HCP is referenced in the general overview of the activities provided in the project description in the main body of the EIR/EIS. Similarly, the evaluations of the effects of O&M activities on covered species provided in the HCP are referenced in the EIR/EIS.

The commenter states that the EIR/EIS should evaluate the nature and extent of impacts from O&M to species not covered by the HCP. A detailed analysis of the effects of O&M activities on species not covered by the HCP is not necessary or required under NEPA for several reasons. IID has been conducting O&M activities associated with its conveyance and drainage system for about 100 years. With the exception of native desert habitat, the habitats in the project area were created and/or are currently supported by IID's O&M activities. The conduct of O&M activities and the existing habitat conditions and species use constitute baseline biological conditions.

In order to comply with CEQA and NEPA, the effects of a proposed action are evaluated relative to existing or baseline conditions and are

then compared to the effects of project alternatives. As noted in the Draft EIR/EIS (Page 3.2-102), IID's O&M activities would be the same under the Proposed Project and the Alternatives, including the No Action Alternative. O&M activities would be the same as baseline conditions under all Alternatives. Thus, biological conditions with continued O&M activities would be the same under the baseline, the Proposed Project and the Alternatives.

The USFWS' proposed action that triggers NEPA review is approval of the HCP and authorization of incidental take of species covered by the HCP. For the USFWS' action, the NEPA analysis needs to describe the take to be authorized, evaluate the impact of the authorized take, and evaluate the impacts of approval and implementation of the HCP. As stated in the Habitat Conservation Planning Handbook promulgated by USFWS and NMFS (at page 5-2): "It is important to keep in mind, however, that the NEPA analysis for an HCP should be directed towards analyzing direct, indirect and cumulative impacts that would be *caused by the approval of the HCP*, that are reasonably foreseeable, and that are potentially significant." [Emphasis added.] The HCP provides the requisite analysis of the level of take and the impact of take of covered species. Further, the evaluation of impacts in the Draft EIR/EIS and the HCP uses a habitat-based approach. Effects to different habitat types are quantified and effects to wildlife using these habitats are inferred from changes in habitat. Since the underlying habitat will be adequately protected or mitigated for the most sensitive species (i.e., special-status species) by implementation of the HCP, this level of protection or mitigation should be adequate for less habitat-sensitive species, including non-covered species.

and maintenance activities. Although the intent of the HCP is to avoid, minimize and mitigate the impacts of the take to the maximum extent practicable, the EIR/EIS still needs to discuss the nature and extent of the impacts that are anticipated and how the HCP mitigates those impacts. Impacts to species not covered in the HCP should also be discussed. F5-7

Biological Resource Impacts on the Lower Colorado River

The discussion of biological impacts on the Lower Colorado River should include all species and their habitats potentially impacted by the project and not be limited to the Southwestern Willow Flycatcher (*Empidonax traillii extimus*) and its habitat. This species was logically a focus of the Service's Biological Opinion on the Bureau's ESA consultation on the Secretarial Implementation Agreements, but other wildlife resources may be impacted by the project and should be considered in the broader analysis required of an EIS. F5-8

Biological Resource Impacts in the Salton Sea

The Draft EIR/EIS assumes that a change in the invertebrate fauna of the Salton Sea as a result of increases in the salinity would not impact bird species that currently use the Salton Sea. We concur that many of the species that use the Salton Sea are also known to consume such salt-tolerant species as brine shrimp in other habitats. What is not provided in the Draft EIR/EIS is an assessment of changes in the abundance of the various invertebrate species in the Sea relative to the projected salinity changes. If there is a time lag between the loss of pileworms and increases in the abundance of the more salt-tolerant species to levels similar to that of pileworms now, significant impacts could occur to such species as the eared grebe (*Podiceps nigricollis*) and ruddy duck (*Oxyura jamaicensis*). This abundance aspect needs to be considered in addition to the assumptions made relative to the presence of salt-tolerant invertebrates in the Salton Sea as the salinity changes provided in the Draft EIR/EIS. F5-9

The analysis of impacts to fish-eating birds does not address the scale of the mitigation. While we support providing mitigation throughout the term of the permit rather than a larger mitigation for the projected period of impacts for the covered fish-eating birds, the end result is that fewer fish-eating birds will be supported by the mitigation on an annual basis than use the Salton Sea now. This distinction should be thoroughly discussed so that readers of the EIR/EIS understand this fundamental premise of Approach 1. Also, other fish-eating species (e.g., Caspian Tern; *Sterna caspia*) are not addressed by the mitigation proposed in the HCP. The impacts to these species and offsetting mitigation should be discussed in the Final EIR/EIS. F5-10 F5-11

The impact of the project on the depth of the Salton Sea and associated changes in the eutrophic state of the Sea are not adequately addressed in the Draft EIR/EIS. The worsening of the eutrophic state of the Sea could have an effect on the frequency and magnitude of bird disease episodes at the Sea. F5-12

Selenium impacts to the wildlife resources using the Salton Sea are not thoroughly evaluated in the Draft EIR/EIS. While loading is not expected to increase as a result of the project, the increased concentrations at the inflows associated with on-farm and system conservation may result in increased impacts to fish and wildlife. In addition, the decreased depth of the Sea associated with the project may alter the cycling and/or biological availability of selenium in the system. This has not been F5-13

Response to Comment F5-8

The evaluation of impacts to biological resources along the Lower Colorado River uses a habitat-based approach. Effects to different habitat types are quantified and effects to wildlife using these habitats are inferred from changes in habitat. While the southwestern willow flycatcher was a specific focus of the evaluation, other special-status species also were considered (see Impacts BR-5, -6 and -7). The analysis assumed that if the underlying habitat was adequately protected or mitigated for the most sensitive species (i.e., special-status species), it would be adequately protected or mitigated for less habitat-sensitive species. Table 3.2-34 in the Draft EIR/EIS presents the primary association and use of vegetation communities by selected wildlife species in the study area, showing that several species' habitat association overlaps sufficiently with that of the willow flycatcher. Impact BR-5 lists the other special-status species similarly affected by the potential loss of cottonwood-willow habitat.

Habitat-based approaches are commonly used to evaluate impacts for NEPA/CEQA evaluations. A more detailed species-specific analysis (as opposed to a habitat-based approach) is not necessary to reach meaningful conclusions regarding the potential impacts of the Proposed Project on biological resources along the Lower Colorado River.

Response to Comment F5-9

If there is a time lag between the loss of pileworms and increases in the abundance of more salt-tolerant species, impacts to such species as the eared grebe and ruddy duck could occur. However, it is unknown whether such a time lag would occur. The specific responses of invertebrate populations of the Sea to increased salinity are impossible to predict with certainty. It is likely that the abundance of pileworms and other invertebrate species used as forage by grebes and ruddy ducks varies annually and that effects on invertebrate abundance due to changes in salinity would be continuous, rather than catastrophic at some threshold. This would allow species such as the eared grebe and ruddy duck to exploit whichever forage species happens to be dominant through time. In addition, eared grebes and ruddy ducks likely forage on other invertebrate species in addition to pileworms, brine shrimp, and brine flies, such that the loss of pileworms would not be immediately reflected in a decline in grebe and ruddy duck abundance.

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Response to Comment F5-9 (continued)

Exactly how the vertebrate and invertebrate communities of the Salton Sea will respond to increases in salinity, and in turn how birds will respond, cannot be predicted. Despite historical differences, Mono Lake and the Great Salt Lake provide the best examples of what the Salton Sea might look like as its salinity increases. Migratory bird use of both of these lakes is very high, suggesting that migratory bird use will continue to be high at the Salton Sea. The exact species composition and relative abundance of migratory birds using the Salton Sea probably will change over time as food resources change at the Sea and bird populations respond to factors in other portions of their ranges. It is important to recognize that the composition and abundance of birds at the Salton Sea have historically fluctuated and transitioned over time. For example, black skimmers were unknown at the Salton Sea until 1972, but since then the population nesting at the sea has increased considerably. Double-crested cormorants nested at the sea in small numbers until 1999, when a large breeding colony became established on Mullet Island. Use of the Salton Sea by migrating and wintering white pelicans appears to have been low until the 1980s, after which the number of birds using the Sea increased.

Response to Comment F5-10

Approach 1 of the Salton Sea Conservation Strategy has been eliminated from consideration. Implementation of the revised Salton Sea Habitat Conservation Strategy would avoid accelerating changes in fish abundance attributable to water conservation and transfer and thereby avoid project-related impacts to piscivorous birds. See Master Response for *Biology—Approach to Salton Sea Habitat Conservation Strategy* in Section 9 of this Final EIR/EIS.

Response to Comment F5-11

Approach 1 has been eliminated from consideration. The Salton Sea Habitat Conservation Strategy would avoid accelerating changes in the fish populations in the Salton Sea that are attributable to the water conservation and transfer project. See the Master Response for *Biology—Approach to the Salton Sea Habitat Conservation Strategy* in Section 9 of this Final EIR/EIS.

Response to Comment F5-12

It is not clear that a shallower Sea will be more productive. Total nutrient loading will be reduced with the conservation program and possible enhanced resuspension of surface sediments could contribute nutrients to stimulate more algae growth. Alternatively, suspended sediments may reduce average light exposure to the algae community and thus reduce productivity (light reduction to algae is a likely result of enhanced mixing of the water column, and is exacerbated by entrained sediment). In addition, the change in productivity of the Sea in relation to decreased average depth is likely to be insignificant as the Sea is now and has always been highly eutrophic. Regardless, as discussed in the text, there is no known quantitative link between Sea productivity and avian disease that would allow us to predict changes in incidence of disease (even if we could predict changes in the Sea's productivity).

Response to Comment F5-13

Please refer to the Master Response on *Biology—Approach to the Salton Sea Habitat Conservation Strategy* in Section 9 of this Final EIR/EIS.

F5-13 considered adequately in the Draft EIR/EIS. Only Alternative 4 results in an overall reduction of loading of selenium to the Salton Sea that may result in a reduction in the biological accumulation of selenium in the system.

Indian Trust Assets

F5-14 Per our recent government-to-government consultation with the Torres-Martinez Desert Cahuilla Indians, the Indian Trust Assets section needs to be expanded to include a more specific evaluation of impacts to that Tribe's trust assets. Tribal lands are currently submerged under the Salton Sea and will be affected by the Project. Their lands will be exposed and could now be contaminated as a result of sediment deposition. These exposed lands may also serve as a source of dust particles that could impact the air quality for the Tribe. Certain actions called for in the HCP will also affect tribal lands (extension and connection of the pupfish drains), and these actions should be evaluated relative to the Indian Trust Assets in the area. Potential impacts to the groundwater resources used by the Tribe as a result of Coachella Valley Water District's (CVWD) receipt and use of additional Colorado River water as part of the Quantification Settlement Agreement will also need to be thoroughly evaluated given that CVWD's anticipated Programmatic EIR has not been available to the Tribe during the comment period for this Draft EIR/EIS. A mechanism will need to be provided that will allow for tribal review of this new information and provide for their comments on this information to be incorporated into the public record for the water transfer project.

Environmental Justice

F5-15 Based on the information provided, it does appear that the area along the Colorado River and Salton Sea have a higher percentage of minority and low-income populations, including Indian Tribes, than the counties as a whole in this region. The Draft EIR/EIS recognizes that there are impacts from the proposed project to both the physical environment and of a socioeconomic nature. However, the Draft EIR/EIS generally concludes that impacts would affect each community (minority and non-minority) to approximately equal degree and therefore would not have a disproportionate effect on any low-income and minority populations. We do not understand how this conclusion was reached. Generally speaking, the Draft EIR/EIS has described the impacts of the proposed action and alternatives on low-income and minority populations. However, even though it seems that there is a higher percentage of low-income and minority populations in certain regions in the counties that would be disproportionately impacted by the proposed action, the Draft EIR/EIS appears to conclude that no disproportionate effects to low-income and minority communities are expected. Based on the appearance of potential disproportionate effects from a percentage point of view, a written discussion is necessary to support the document's conclusion. We suggest that data collected from the Census Bureau and/or other appropriate sources be included to reflect the total breakdown of each minority and low-income group compared with non-minority groups to support the findings.

F5-16 Impacts to low-income and minority populations under Approach 1 have not been described. The document at one place states that this approach has been developed to a programmatic level, and the nature and extent of physical impacts are not known at this time. Therefore, impacts to low-income and minority populations have not been identified thus far under this approach. It seems that even at a

Response to Comment F5-14

Each of the comments raised have been addressed in the revised Section 3.9, Indian Trust Assets. Changes are indicated in Section 3.9 of this Final EIR/EIS.

The Tribe, because of its government-to-government relationship with the Department of Interior, can continue dialog with the Department on these issues outside the context of the EIR/EIS public review process. Also, to the extent the Tribe would like its comments to be part of the administrative record for the NEPA process, the Tribe should comment on the Final EIS after it is filed. Their comments will be considered prior to a Record of Decision, and will be part of the record.

Response to Comment F5-15

In response to comments, the text of Section 3.15 has been revised and are indicated in Section 3.15 of this Final EIR/EIS.

Response to Comment F5-16

Please refer to the Master Response on *Biology—Approach to the Salton Sea Habitat Conservation Strategy* in Section 9 of this Final EIR/EIS.

F5-16

programmatic level, impacts should generally be described recognizing that details should be provided if and when a specific action is proposed and analyzed.

F5-17

We appreciate the opportunity to provide comments on the Draft EIR/EIS and an update on the status of the HCP process. We look forward to continuing working closely with your agency, and the water districts to provide you with the best possible recommendations and analyses required to complete the NEPA and Endangered Species Act processes. Please contact me or Miel Corbett of my staff at (916) 414-6464 or Carol Roberts at the Carlsbad Fish and Wildlife Office (760-431-9440 ext. 271) if you have any questions you would like to discuss.

Enclosures (1)

cc: Elston Grubaugh, Imperial Irrigation District
Bruce Ellis, Bureau of Reclamation, Phoenix Area Office
Glenn Black, California Department of Fish and Game

Response to Comment F5-17

Comment noted.

Enclosure 1.

Draft HCP Status

We would like to provide you with an update on the current status of the HCP. Great progress has been made in the development of the HCP for the water conservation and transfer project since the concepts were initially presented to us in March of 2001. IID is to be congratulated for their efforts in this endeavor. We have refined the document further since its release to the public for review, particularly in regards to the process of developing monitoring and adaptive management procedures. We have not seen all of the modifications to the document language discussed to date, but we look forward to seeing an updated version of the HCP as we move forward with the formal application process for their Incidental Take Permit (ITP). The topics for which issues remain are provided below for your information.

F5-18

In our recent discussions with IID on Approach 1 for the Salton Sea, they have proposed major changes to that approach as compared to the description in the Draft HCP and EIR/EIS out for public review. IID has proposed stocking fish to a reduced number of ponds and not relying on natural reproduction of fish within the ponds. The IID is proposing that the required fish (by weight) could be stocked to 500 acres of ponds rather than 5,000 acres as proposed in the Draft HCP. Given the water requirements of the ponds and the purpose of the project (water conservation and transfer), IID has proposed the use of New River in the ponds rather than canal water. By raising the flow through the system, it is their opinion that selenium accumulation can be minimized. We have several concerns with this modified proposal that need to be considered in both the NEPA documents and the HCP: (1) increasing the density of foraging birds with the reduction in pond acreage may promote some avian diseases; (2) increasing bird density may result in interspecific (and possibly intraspecific) interference of foraging activities; (3) the New River may carry constituents that are toxic to fish so measures would need to be developed to prevent such materials from entering the ponds and/or respond to events that did occur by removing dead fish and re-stocking the ponds; and (4) the New River may carry pathogens that could impact fish and birds directly or sicken fish resulting in outbreaks of avian botulism when the fish are consumed by birds. These issues need to be considered in the finalization of the HCP, and a more complete analysis (including location information) will be required for the Final EIR/EIS if additional NEPA documents are not going to be developed for this aspect of the HCP.

F5-19

Conversion of land uses by IID does not include conversion of lands leased by the Sonny Bono Salton Sea National Wildlife Refuge to some other use. This specific land use conversion cannot be covered because the impacts to the covered species have not been analyzed nor has appropriate mitigation been provided to address any such impacts. Other aspects of land use and leasing have yet to be resolved. Conversion of land uses on IID land is also problematic in general because not all of the current and anticipated uses are covered activities nor has a specific analysis of the impacts of such conversions been provided within the HCP and the Draft EIR/EIS.

F5-20

IID has agreed to develop alternative nesting habitat for Black Skimmers (*Rynchops nigra*) and Gull-billed Tern (*Sterna nilotica vanrossemi*) if Approach 1 is taken for the Salton Sea. However, nesting habitat for the Double-crested cormorant (*Phalacrocorax auritus*) will also be impacted by the decreased elevation of the Salton Sea and has not been addressed. Direct and indirect project impacts

Response to Comment F5-18

Please refer to the Master Response for *Biology—Approach to the Salton Sea Habitat Conservation Strategy* in Section 9 of this Final EIR/EIS.

Response to Comment F5-19

The HCP has been revised to specifically exclude conversion of land owned by IID that is leased to the USFWS as a covered activity. The HCP also has been revised to specifically identify land uses that are covered activities as follows: "Land uses that constitute covered activities are as follows:

- Installation and implementation of water conservation measures, including fallowing
- Installation and operation of conveyance and drainage facilities
- Creation and management of fish or wildlife habitat
- Construction and operation of a fish hatchery
- Implementation of any other environmental mitigation associated with the IID Water Conservation and Transfer Project, this HCP or the QSA."

Response to Comment F5-20

The Draft EIR/EIS has been revised to more specifically address effects to double-crested cormorants from reductions in the water surface elevation of the Salton Sea. These revisions are found in this Final EIR/EIS in Section 3.2.4.3.

In addition, the revised Salton Sea Habitat Conservation Strategy would avoid accelerating exposure of nesting/roosting features and changes in fish abundance. See the Master Response for *Biology—Approach to Salton Sea Habitat Conservation Strategy* in Section 9 in this Final EIR/EIS.

F5-20 to a significant nesting population of Double-crested cormorants is not adequately evaluated in the EIR/EIS and should be analyzed in the Final EIR/EIS including a discussion of mitigation measures to avoid, minimize or offset impacts to this species.

F5-21 IID and the Wildlife Agencies have yet to determine and agree upon the caps on the water requirements for each of the mitigation strategies. Given the assurances provided under the Service's No Surprises Policy, these determinations will need to be made and included in the HCP and analyzed in the Final EIR/EIS.

Desert Pupfish Strategy 2 may not be adequate in regards to the lack of a specific selenium action level. The Service is conferring internally to determine what changes to this strategy may be necessary.

F5-22 There is no mitigation proposed to offset impacts to covered species using agriculture, other then to continue to encourage agricultural activities in Imperial Valley. Some species may be benefitted by actions associated with other mitigation measures (e.g., Aleutian Canada geese (*Branta canadensis leucopareia*) will likely use managed marsh created as part of the drain habitat conservation strategy), but there are no such measures that offset the impacts to other species using agriculture (e.g., Mountain Plover (*Charadrius montanus*) and Ferruginous Hawk (*Buteo regalis*)). Additional consideration will need to be given to the development of appropriate mitigation for these species.

F5-23 Herbicide use as a covered activity is problematic because we are lacking adequate species-specific information for a proper analysis in the HCP and the EIR/EIS of the effects of herbicides on the 96 species proposed for coverage under the Water Transfer HCP .

F5-24 The conservation strategy proposed for the "Other Covered Species" currently lacks adequate specificity to address our permit requirements. It is not clear if adequate information will be available within the time frame we have for permit issuance to include these species on the ITP.

F5-25 Third party beneficiaries must have a contractual relationship with IID in order to be covered by the incidental take permit. A specific mechanism has not yet been developed. IID has committed to working with the Regional Solicitor's Office to develop language that would address this need in the agreements that the farmers will sign in order to participate in the water conservation program.

F5-26 The Service has not seen documentation of IID's ability to fund the HCP. This will be required prior to issuance of the ITP.

F5-27 We have not seen an update of the language on changed and unforeseen circumstances. The previous language that considered several events to be changed circumstances but impacts from those events to be unforeseen was not adequate. We look forward to new language that clarifies the distinction between the two and provides IID's proposed responses.

Response to Comment F5-21

Since the release of the Draft EIR/EIS and HCP, IID has eliminated Salton Sea Approach 1 from consideration. Refer to Master Response for *Biology—Approach for the Salton Sea Habitat Conservation Strategy* in Section 9 of this Final EIR/EIS. The revised Salton Sea Approach defines the procedure for annually calculating the amount of mitigation water that will be provided to the Sea until the year 2030. As such, the amount of water conservation, the type of conservation, and the salinity of the Salton Sea will determine the amount of water necessary to fulfill the mitigation. In addition to the water requirements for the Sea, IID has committed to mitigation strategies that require the use of water (i.e., managed marsh and native tree habitats). The requirements to maintain the function of these created habitats will dictate the water needs.

Response to Comment F5-22

Based on discussions with representatives from the U.S. Fish and Wildlife Service and California Department of Fish and Game, the HCP has been revised to include a measure for species associated with agricultural fields.

Response to Comment F5-23

Comment noted.

Response to Comment F5-24

The ESA allows conditional coverage, which is proposed for 25 species.

Response to Comment F5-25

Comment noted.

Response to Comment F5-26

IID will commit to including funds in the annual budget to fund the HCP. USFWS has accepted this approach in other HCPs.

Response to Comment F5-27

The changed and unforeseen circumstances section of the Final HCP (see Appendix C in this Final EIR/EIS) has been revised to reflect input from the U.S. Fish and Wildlife Service and the California Department of Fish and Game on the Draft HCP.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

April 26, 2002

Mr. Bruce D. Ellis
Environmental Resources Management
Division
Phoenix Area Office (PXAO-1500)
Bureau of Reclamation
P.O. Box 81169
Phoenix, AZ 85069-1169

Dear Mr. Ellis,

The Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS) for the **Imperial Irrigation District/San Diego County Water Authority Water Conservation and Transfer Project (IID/SDCWA water transfer) and Draft Habitat Conservation Plan (HCP), Southern California** (CEQ# 020030). Our review and comments are pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. Our scoping comments for this project were provided on October 22, 1999.

The Imperial Irrigation District (IID) proposes to implement a water conservation and transfer project that would conserve and transfer up to 300,000 acre-feet per year (afy) of Colorado River water to San Diego County Water Authority (SDCWA), Metropolitan Water District (MWD), and Coachella Valley Water District (CVWD) (Proposed Project). Water for transfer would be conserved by implementing on-farm irrigation system improvements, water delivery system improvements, and/or fallowing. The terms of the water conservation and transfer transactions are set forth in the IID/SDCWA 1998 Transfer Agreement, as amended, and the Colorado River Quantification Settlement Agreement (QSA) to be executed by IID, CVWD, and MWD.

The objectives of the project are, 1) to respond to the State Water Resources Control Board's (SWRCB) directive for IID to develop and implement a conservation program while protecting IID's water rights; 2) to increase the reliability of the water supplies for SDCWA, MWD, and CVWD; and 3) to help settle, by consensual agreement, long-standing disputes regarding the quantity, priority, use, and transferability of Colorado River water. The transfer, which would remain in effect for up to 75 years, will facilitate efforts to reduce California's diversions of Colorado River water in normal years to its annual 4.4 million acre-feet (maf) legal apportionment. The Secretary of the Interior (through the Bureau of Reclamation) must approve the change in the point of delivery for the transferred water.

The Proposed Project and alternatives include implementation of a Habitat Conservation Plan (HCP) to address impacts to threatened and endangered species and their habitats protected